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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,657

05/03/2006

Giuseppe Salice

1729-438

4240

6449

7590

08/27/2009

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

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WASHINGTON, DC 20005

EXAMINER

VOLZ, ELIZABETH J

ART UNIT

PAPER NUMBER

3781

NOTIFICATION DATE

DELIVERY MODE

08/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/595,657	Applicant(s) SALICE, GIUSEPPE	
	Examiner ELIZABETH VOLZ	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 5-11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding Claim 1, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (U.S. Patent No. 5,417,339).
6. Regarding Claim 1, Liu discloses a container for gifts comprising a first half-shell 2 (Figure 1) and a second half-shell 1 (Figure 1) which can be coupled mouth to mouth to form a closed container suitable for holding the gifts, characterized in that connection means are associated with each of the half-shells and can be mutually engaged in order

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to keep the two half-shells connected to one another, said connection means comprising buckle-like connection means comprising a male element 24 (Figure 1) integral with said first half-shell, a female element 110 (Figure 1) integral with said second half-shell in the mutual engagement position, and articulation means 243 (Figure 1) which, in the configuration of mutual engagement of the connection means permit an opening pivoting movement of one half-shell relative to the other half-shell (Figure 5) wherein said connection means connect the two half-shells to one another in a manner such as to permit a limited movement of one half-shell relative to the other in a direction perpendicular to the plane of the mouth (Figure 5).

7. Regarding Claim 5, Liu discloses a male element comprises a flexible tab 24 (Figure 1) extending from the periphery of the mouth of one half-shell and provided with an end projection 241 (Figure 1), and in which the female element comprises a bridge-like element 19 (Figure 1) integral with the side wall of the other half-shell, defining a slot 16 (Figure 1) in which the projection of the tab can be inserted.

8. Regarding Claim 8, Liu discloses a means for facilitating the opening of the container, comprising a flexible tab 24 (Figure 1) connected to the periphery of the mouth of one of the half-shells, the other half shell being capable of being superimposed on the end of the tab in the region of its connection to the respective half-shell, in the closed configuration of the container (Figure 2).

9. Claims 1, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rider, Jr. et al. (U.S. Patent No. 5,950,854).

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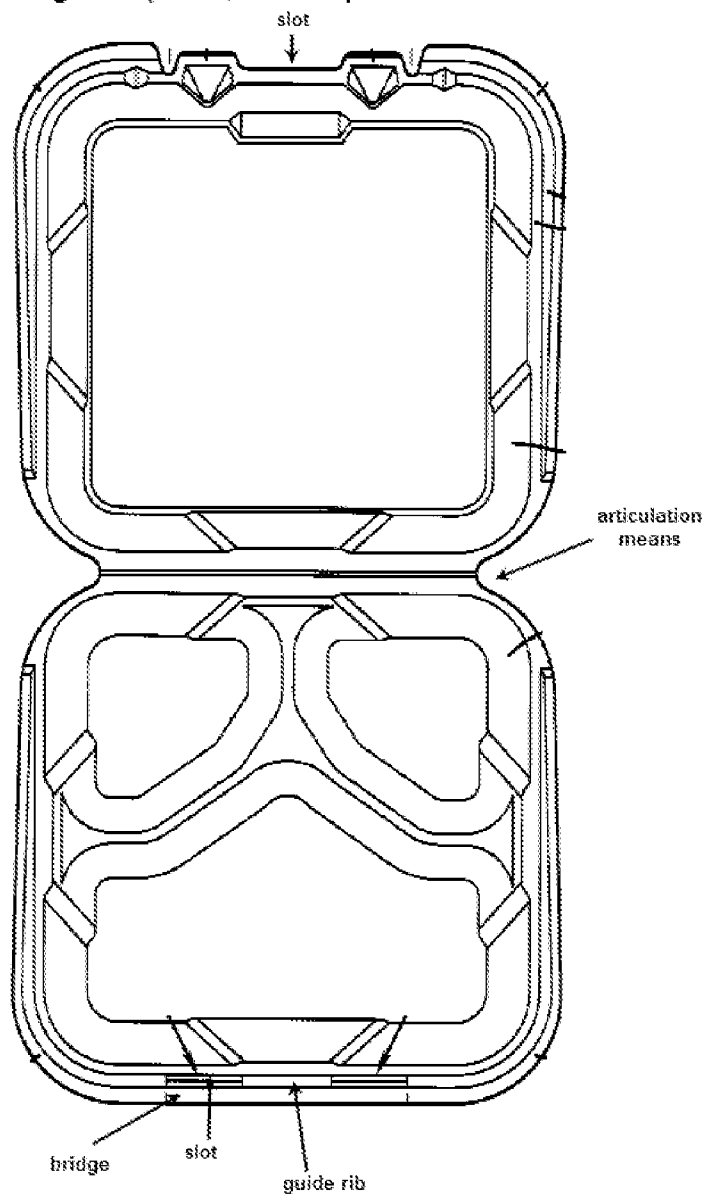
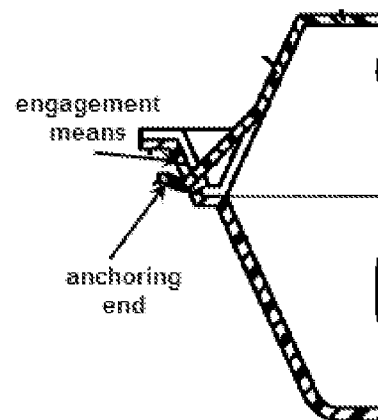
10. Regarding Claim 1, Rider, Jr. et al. discloses a container 10 (Figure 1) for gifts comprising a first half-shell 12 (Figure 1) and a second half-shell 14 (Figure 1) which can be coupled mouth to mouth to form a closed container suitable for holding the gifts (Figure 1), characterized in that connection means are associated with each of the half-shells and can be mutually engaged in order to keep the two half-shells connected to one another, said connection means comprising buckle-like connection means comprising a male element 38/40 (Figure 3) integral with said first half-shell, a female element 42/44 (Figure 3) integral with said second half-shell in the mutual engagement position, and articulation means (Figure 3 below) which, in the configuration of mutual engagement of the connection means permit an opening pivoting movement of one half-shell relative to the other half-shell wherein said connection means connect the two half-shells to one another in a manner such as to permit a limited movement of one half-shell relative to the other in a direction perpendicular to the plane of the mouth (Figure 3).

11. Regarding Claim 6, Rider, Jr. et al. discloses a connection means which comprises a male element 38/40 (Figure 3) integral with one half-shell and having a generally anchor-like configuration with resilient anchoring ends (Figure 6 below), and a female element 42/44 (Figure 1) formed by a bridge-like wall (Figure 3 below) defining an open-ended slot (Figure 3 below) in which the male element can be inserted, and in which the anchoring ends can engage the walls delimiting the slot (Figure 7).

12. Regarding Claim 7, Rider, Jr. et al. discloses a male element which comprises a pair of substantially parallel, resilient prongs 38/40 (Figure 3) separated by a slot (Figure

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3 below), wherein the female element comprises a guide rib (Figure 3 below) which can be inserted in the slot between the prongs, and wherein the female element comprises projecting engagement means (Figure 6 below) which can cooperate with the anchoring ends of the prongs to prevent removal of the male element from the female element (Figure 7).

Figure 3 (Rider, Jr. et al.)**Figure 6 (Rider, Jr. et al.)**

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Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (U.S. Patent No. 5,417,339) in view of Bezek et al. (U.S. Pub. No. 2002/0008106).

15. Regarding Claim 9, Liu teaches all the limitations substantially as claimed except for a heat shrinkable band. However, Bezek et al. teaches a heat shrinkable band 112 (Figure 1b). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Liu to include a heat shrinkable band, as taught by Bezek et al., in order to keep two parts of the shell together.

16. Claims 1, 10 and 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrero (WO 93/00267) in view of Liu (U.S. Patent No. 5,417,339).

17. Regarding Claim 1, Ferrero discloses a container 1 (Figure 1) comprising a first half shell 2 (Figure 1) and a second half shell 2 (Figure 1) which can be couple mouth to mouth to form a closed container suitable for holding gifts (Figure 1), characterized in that connection means 5 (Figure 2) are associated with each of the half shells connected to one another. Ferrero does not disclose a buckle-like connection means comprising a male element integral with said first half shell, a female element integral with said second half shell in the mutual engagement position, and articulation means which, in the configuration of mutual engagement of the connection means permit an

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opening pivoting movement of one half shell relative to the other half shell. However, Liu teaches a buckle-like connection means comprising a male element 24 (Figure 1) integral with said first half shell, a female element 110 (Figure 1) integral with said second half shell in the mutual engagement position, and articulation means 243 (Figure 1) which, in the configuration of mutual engagement of the connection means permit an opening pivoting movement of one half shell relative to the other half shell (Figure 5). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Ferrero to include a connection means and articulation means, as taught by Liu, in order to keep the first and second half shell securely attached together.

18. Regarding Claims 10 and 11, Ferrero discloses a hollow body U (Figure 3), more specifically a chocolate egg (Page 6, Line 16) with a container 1 (Figure 3) inside.

Response to Arguments

19. Applicant's arguments with respect to claims 1 and 5-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571) 270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
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